

In Attendance:

Stacy Parsons (Chairing)

Mary Weeks

Jack Hickey

Terry Eucker, Berkshire Conservation Agent

Ron Tinkham, representing Baker Hill Road District

Perri Petricca, owner

Jim Scalise, SK Design Group

RE: 77 Baker Street

Enforcement Order

Notice of Intent Application

- Last meeting, received review from BCAP and asked for continuance to respond.
- Item 1: Recommended separation of EO and NOI review. Response: done a lot of work and submitted plans, believed that there is enough information to settle permitting tonight, offering to submit later plans that represent tonight's discussion. Terry: need to think about what the area would have looked like if the area hadn't been touched to get a good sense of what the final restoration area would look like. J. Scalise: not looking to segregate the activities, believes that work can occur at the same time. Agrees would have been a different discussion if we had met prior to any work. Would like to have both permits reference one set of drawings. J. Hickey: show us what it would look like at original conditions then we take it from there.
- Restoration plan discussion. Currently included in the Notice of Intent discussion and as a separate document.
- Item 2: 2002 Aerial photo. Length of intermittent stream altered @ 400'. Know that some of the length currently has forested edges. Sheet 2 of 5 shows areas of forested edges, wetland replication, and planning plan. Proposed 20'-25' vegetated buffers on both sides of the intermittent stream along entire exposed length (406 ft). Not proposing to add anything to areas that have revegetated themselves, nothing has been cut along the bank since 2002. Terry: concern about runoff increasing speed due to lack of infiltration, increased scour in the exposed areas. P. Petricca: no sheet flow across the driveway. There are existing pipe(s) along the current driveway. Terry: increased plantings to regulate temperature and increase habitat. P. Petricca: wants to correct the situation, bed is dry 90% of the time, seeking sensible solution..
- Item 3: no need for dewatering, work to occur during no flow. Restoration plan has provision for dewatering procedures via dirt bag. Work proposed to occur within 1 week, expect to work within dry conditions but have proposed back up plan. Stockpiled erosion controls will be available on site

- Item 4: violation on western edge recommended to be investigated. Applicant's perspective is that Mr. Petricca has not been involved in the work and that Conservation should follow up with Condron separately, happy to write letter to Condron to investigate property line and possible trespass issues. J. Hickey: write the letter and if we need to follow up with an EO to Condron we will proceed. Conservation will be copied on the letter.
- Item 5: still a driveway, access farm road to the meadow whether or not it connects to the Mall drive in the future, Scalise: residential use only and fee is appropriate. Reviewed possible fee categories.
- Discussion about existing culvert. No evidence submitted that there was a legal culvert there that was prior to the clearing of the lot in 2002. Any logging culvert would have been removed at the end of logging. Testimony of Scalise that there is personal knowledge that a culvert was existing on that site. Terry: burden of proof is on applicant to prove, no evidence is that crossing in a legal crossing. Scalise: referenced old farm equipment currently on site, offered anecdotal evidence. Petricca: old manure spreader, possibly was used for crops in years past.
- Culvert does not meet current stream crossing standards because not an open bottom culvert. Terry recommending temporary bridge that could be removed when not needed. Reviewed other projects in Berkshires that had permanent crossings.
- Item 6: Location of the stream crossing: Scalise: the road is to access both Mall Road and the meadow, that Terry's recommendation to cross at another area uphill of the current crossing, Petricca does not own the area, would require additional clearing. Reviewed area near dry stream channel. Terry: if looking at limited project crossing then alternative analysis would have to be completed.
- J. Hickey: if we bless this location, then do we pre-judge the arguments with the Mall Road. Petricca: it's my risk, Scalise: only making judgments for the crossing and the 100' buffer. Discussed that the crossing could potentially be used even if the curb cut location changes. Scalise: chopping down mature trees is a concern. J. Trybus commented on local knowledge of the hillside.
- Intermittent stream 2 ½ to 3 feet wide and approx. 4- 6 inches deep. Discussed stream characteristics, stream is fed by a seep, vernal pool located on property downstream of work. Upland area impacted by vehicles and interrupted flow from the wetland to the property; WMECO has been much more aggressive according to Petricca about maintaining their right of way.
- Terry contrasted what would have been a crossing location had no work occurred with the current conditions. Current culvert location based on an area where could meet with stormwater standards. Scalise: hydraulically, two 8" culverts not large enough and the area is filled with invasives. Took advantage of location to put in a better culvert and address invasive species. Scalise starting with opinion that there was an existing culvert so could meet the stream crossing to maximum extent practicable.
- Stream crossing standards in December would have allowed the 6' culvert currently proposed. Proposal meets the openness ratio but would not be embedded far enough.
- Will not need an Army Corp permit if the culvert is a replacement.

- (Paragraph 7) Mark Stinson was copied on the responses submitted to the Commission. Scalise respects the work done by their wetland scientist to determine bank. BCAP and SK Design disagree about the width of bank as measured in the field, did look at slightly different location. Reviewed site plans.
- R. Tinkham reiterated concern addressed in memo regarding the detention pond on the Mall Road. J. Hickey restated that our jurisdiction stops at the 100'buffer. R.Tinkham discussed change in curb cut. Terry: if the road is moved there would need to be additional resource area surveys.
- Issuing revised Enforcement Order with updated completion dates. Unanimous approval of Notice of Intent Application. Issuing Order of Conditions.

Other Business:

- Call received about runoff from Berkshire Mall towards Rita Marie's. Reviewed site plans. Site visit to be arranged.
- J. Hickey updated Commission about 29 Profile Street. Adding second story and a retaining wall @ 75' from the lake to create parking area for 3 cars. Will attend our meeting on 6/6/11
- Discussed need to have an updated USGS Quad for the Commission.
- J. Trybus updated the Commission re: Barton/Boleng issue off of Narragansett. Site visit conducted, observed some disturbance. Barton reported that there was some concrete that was mixed with rocks was removed, no material was added and no evidence of stone being added. Vegetation was being planted. Observed shoreline and no concerns Railroad ties still in place in the retaining wall. J. Hickey observed the fence that is in place near the dock off of Narragansett, no concerns. Informed that no further work should be done near the shoreline until drawdown and to come to the Commission in the Fall to discuss work. No further action to be taken at this time.
- J. Hickey updated the Commission regarding water testing that was done and shows high levels of E. Coli around Miner Road. We will review the report at the next meeting.